



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE NY 11553

COPY MAILED

MAR 21 2006

OFFICE OF PETITIONS

In re Application of :
Hye-Young Lee :
Application No. 09/118,100 :
Filing Date: July 17, 1998 : Decision on Petition for
For: MOBILE TELEPHONE CAPABLE OF : Patent Term Extension
DISPLAYING WORLD TIME AND :
METHOD FOR CONTROLLING THE :
SAME :

The above-identified application has been forwarded to the undersigned for consideration on the "Petition For Patent Term Extension," which was received on March 6, 2006, requesting patent term extension to be granted for the first period of appellate review by the Board of Patent Appeals and Interferences. See 35 U.S.C. § 154(b)¹ and 37 C.F.R. § 1.701.

The petition under 37 CFR 1.181 is granted.

Petitioner notes that the Notice of Allowance dated February 7, 2006, in the above-identified application only included a patent term extension of 576 days for the period from June 30, 2004, the date the Notice of Appeal was filed, and ending on January 24, 2006, the date of the final decision in favor of the applicant, but that it did not include time for the first appellate review.

35 U.S.C. § 154(b) provides for patent term extension for appellate review, interference and secrecy order delays in applications filed on or after June 8, 1995 and before May 29, 2000, and, as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113, for those delays and others in applications filed on or after May 29, 2000.

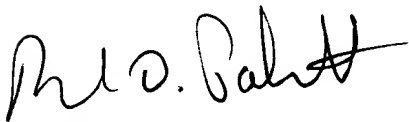
A Notice of Appeal was filed in the above-identified application on September 13, 2002. On March 3, 2004, a panel of the Board of Patent Appeals and Interferences (BPAI) reversed the decision of the examiner in the above-identified application. A second Notice of Appeal was filed in the above-identified application on June 28, 2004. On January 24, 2006, a panel of the Board of Patent Appeals and Interferences (BPAI) reversed the decision of the examiner in the above-identified application.

¹35 U.S.C. § 154 was amended by the "American Inventors Protection Act of 1999," which was enacted on November 29, 1999 as part of Public Law 106-113 (Consolidated Appropriations Act for Fiscal Year 2000). Since this amendment is effective May 29, 2000 and applies to applications filed on or after that date, the prior patent term adjustment provisions of 35 U.S.C. § 154 continue to apply to the above-identified application.

Since the above-identified application was filed after June 7, 1995, there is no terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review, and issuance of the application as a patent was delayed due to appellate review resulting in a reversal of an adverse decision of patentability, the patent to issue from the application is entitled to an extension of the patent term. The first period of delay in the above-identified application is the period beginning on September 13, 2002, the date that the first Notice of Appeal was filed, and ending on March 3, 2004, the date of the final decision in favor of the applicant. The second period of delay in the above-identified application is the period beginning on June 28, 2004, the date that the second Notice of Appeal was filed, and ending on January 24, 2006, the date of the final decision in favor of the applicant. Three years after the earliest effective filing date of the application is July 17, 2001. Accordingly, the period of extension is not required to be reduced pursuant to 37 CFR 1.701(d)(1) by the amount of time prior to three years after the filing date of the application. As a result, the period of extension is 1,114 days, the period from September 13, 2002 to March 3, 2004 and the period from June 28, 2004 to January 24, 2006 including the beginning and end dates.

After mailing of this decision, the above-identified application will be forwarded to Office of Publications for further processing. The patent, if issued, will include an indication that the patent term is extended by **1,114 days**.

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.



Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy